

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

DRAKE L. BANKS, SR.,

Defendant.

**4:19CR3116**

**ORDER**

Defendant has moved for pretrial release, citing the risk of contracting the COVID-19 virus in the jail facility if he remains detained. Defense counsel argues, “Mr. Banks has a relatively clean record, with little violent history, and no failures to appear,” and “[g]iven the spread of COVID-19, and the threat is poses to those incarcerated, Mr. Banks’s continued incarceration may be a sentence of serious illness or death.” (Filing No. 47).

As stated in the detention order, at the time of the traffic stop which culminated in Defendant’s arrest, Banks and his co-defendant not only attempted to escape a police vehicle, but they contrived a plan to seriously injure and/or kill the patrol officer so they could flee the traffic scene. Together with his co-defendant, Banks damaged to the patrol vehicle by prying and bending the partition between the front and back seats in order to reach the front seat area and doors. Had Banks escaped, he had the means to carry out the plan to harm the officer. Within the stopped vehicle, officers located 7 firearms: 2 fully loaded (round in the chamber) pistols, two unloaded pistols inside a backpack, two other pistols, and an AR15 type firearm loaded with a single round in the chamber, along with several large capacity magazines for this rifle that were loaded with ammunition.

I am not convinced the COVID-19 pandemic is a “material change of circumstances” warranting a renewed evaluation of my prior detention order. But even assuming it was, I still have a duty to comply with the Bail Reform Act and assess whether a defendant poses a risk of nonappearance at future proceedings and a risk of danger to the community if released. By his conduct and conversation at the traffic stop, along with the number and types of guns in the vehicle at the time of the stop and his criminal record of drug-related crime, Banks has proven his pretrial release would pose both a very serious risk of danger to the public and a risk of flight to avoid prosecution.

Accordingly,

IT IS ORDERED that Defendant’s motion for release, (Filing No. 47), is denied.

Dated this 25th day of March, 2020.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge